

OGC Has Reviewed

QUARTERS

All allowances.

SECRET

26 April 1950

25X1A CFD
Attention: Mr. [REDACTED]
Legal Staff

25X1A Quarters Allowance - [REDACTED]

25X1A 1. Reference is made to the attached file concerning the eligibility of [REDACTED] for quarters allowance.

2. This letter was originally presented to this office by your memorandum of 14 October 1949, wherein you sought our legal determination as to whether or not subject employee was entitled to quarters allowance applicable to her post of assignment, and, if so, the basis therefor, namely, "with dependents" or "without dependents".

3. We returned the file to your office on 19 October with the observation that the granting of a quarters allowance on either basis might be in conflict with the regulations issued by the FEC. It was observed further that the occupancy of living quarters together might operate to relieve the Army of the responsibility of granting any allowances. Request was therefore made that the foregoing matters be clarified.

25X1A Dispatch No. [REDACTED] dated 6 January 1950, from [REDACTED] to Chief, FIZ, advises that civilians of the Department of the Army working in [REDACTED] who have rented property from [REDACTED] are not authorized to draw rental allowances since no funds have been appropriated by Congress for that category of Government employees. Mr. [REDACTED] notes that employees of the Department of State are in another category and are authorized to draw rental allowances. Mr. [REDACTED] also refers to Department of Stateogram 249, dated 30 December 1949, which authorizes the Diplomatic Section to pay rental allowances to those of their married employees in [REDACTED] who find adequate quarters for themselves, and rent directly from [REDACTED]. Mr. [REDACTED] documents this general statement of policy by attaching to his memorandum copy of memorandum dated 21 December 1949 from DA (TAG) (AGAO-C) WASH DC to [REDACTED]

25X1A 4. There would appear to be no quarrel with the comment of Mr. [REDACTED] to the effect that CIA personnel should receive the same consideration as Department of State personnel with respect to allowances. Recommendation is therefore made by Mr. [REDACTED] that the application for quarters allowance for [REDACTED] be approved retroactive to 1 November 1949.

25X1A 5. The remaining questions to be resolved, therefore, are (1) whether subject employee is entitled to quarters allowance on the "with family" or "without family" basis, and (2) the effective date thereof.

6. The "with family" basis applies to [REDACTED] if it can be established that the facts come within the provisions of Section 3.62 of the Standardized Allowance Regulations or that the husband comes within the definition of "family" under Section 1.5 b(5) of the same regulations.

25X1A

7. Sections 3.62 and 1.5 b(5) of the SAR provide respectively as follows:

"3.62 Rule as Applied to Shared Quarters

If two or more officers or employees share quarters, each shall be granted the estimated amount of his contribution toward the total quarters expenditure, not in excess of the maximum for which he is eligible; except that, if two such officers or employees are husband and wife, the total of the quarters allowances granted both shall not exceed the maximum "with family" rate prescribed for the one in that higher group classification."

"1.5 Definitions

b. "Family" means a "(5) Husband who is physically or mentally incapable of supporting himself;"

Though the employees here concerned are husband and wife and are to occupy the same quarters, the regulations are not applicable, for there can be no contribution on the part of the husband for reasons aforesaid. Further, the husband is neither physically nor mentally incapable of supporting himself. The dependency condition required by the definition of "family" is absent thereby making the regulation inapplicable. It is to be observed that a grant of the "with family" rate under the circumstances would burden the CIA appropriation with an unauthorized expense. It is the conclusion of this office, therefore, that the "without family" rate should apply to the quarters allowance of [REDACTED]

25X1A

8. With respect to the effective date thereof, it is noted that Department of State Airgram No. 249 is dated 30 December 1949 without reference to the effective date on which the allowance is to commence. It is noted further that the recommendation is made retroactive to 1 November 1949. On the basis of these two dates, the possibility exists that the approval of quarters allowance, as recommended, may be antecedent to the approval of the Department of State for its employees. It is suggested that this date be clarified administratively.

JBK:bw

Background file attached.

cc: Subject

Chrono

Legal Decisions

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